

this section, an improvised explosive device is a device fabricated in an improvised manner incorporating explosives or destructive, lethal, noxious, pyrotechnic, or incendiary chemicals in its design, and generally includes a power supply, a switch or timer, and a detonator or initiator. The carrier should be particularly attentive to signs that security may have been compromised on rail cars transporting materials covered by §172.820 of this subchapter, rail carload quantities of ammonium nitrate or ammonium nitrate mixtures in solid form, or hazardous materials of interest based on current threat information.

(c) If a rail car does not conform to the safety and security requirements of this subchapter, the carrier may not forward or transport the rail car until the deficiencies are corrected or the car is approved for movement in accordance with §174.50.

(d) Where an indication of tampering or suspicious item is found, a carrier must take appropriate action to ensure the security of the rail car and its contents have not been compromised before accepting the rail car for further movement. If the carrier determines that the security of the rail car has been compromised, the carrier must take action, in conformance with its existing security plan (see subpart I of part 172 of this subchapter) to address the security issues before forwarding the rail car for further movement.

[73 FR 20773, April 16, 2008]

#### § 174.14 Movements to be expedited.

(a) A carrier must forward each shipment of hazardous materials promptly and within 48 hours (Saturdays, Sundays, and holidays excluded), after acceptance at the originating point or receipt at any yard, transfer station, or interchange point, except that where biweekly or weekly service only is performed, a shipment of hazardous materials must be forwarded on the first available train.

(b) A tank car loaded with any Division 2.1 (flammable gas), Division 2.3 (poisonous gas) or Class 3 (flammable liquid) material, may not be received and held at any point, subject to forwarding orders, so as to defeat the pur-

pose of this section or of §174.204 of this subchapter.

[Amdt. 174-26, 41 FR 16092, Apr. 15, 1976, as amended by Amdt. 174-68, 55 FR 52677, Dec. 21, 1990]

#### § 174.16 Removal and disposition of hazardous materials at destination.

(a) *Delivery at non-agency stations.* A shipment of Class 1 (explosive) materials may not be unloaded at non-agency stations unless the consignee is there to receive it or unless properly locked and secure storage facilities are provided at that point for its protection. If delivery cannot be so made, the shipment must be taken to next or nearest agency station for delivery.

(b) *Delivery at agency stations.* A carrier shall require the consignee of each shipment of hazardous materials to remove the shipment from carrier's property within 48 hours (exclusive of Saturdays, Sundays, and holidays) after notice of arrival has been sent or given. If not so removed, the carrier shall immediately dispose of the shipments as follows:

(1) *Division 1.1 or 1.2 (explosive) materials:* If safe storage is available, by storage at the owner's expense; if safe storage is not available, by return to the shipper, sale, or destruction under supervision of a competent person; or if safety requires, by destruction under supervision of a competent person.

(2) *Hazardous materials, except Division 1.1 or 1.2 (explosive) materials, in carload shipments:* By storage on the carrier's property; by storage on other than the carrier's property, if safe storage on the carrier's property is not available; or by sale at expiration of 15 calendar days after notice of arrival has been sent or given to the consignee, provided the consignor has been notified of the non-delivery at the expiration of a 48-hour period and orders for disposition have not been received.

(3) *Hazardous materials, except Division 1.1 or 1.2 (Class A explosive) materials, in less-than-carload shipments:* By return to the shipper if notice of non-delivery was requested and given the consignor as prescribed by the carrier's tariff, and orders for return to shipper have been received; by storage on the carrier's property; by storage on other

## § 174.20

than the carrier's property, if safe storage on carrier's property is not available; or by sale at expiration of 15 calendar days after notice of arrival has been sent or given to the consignee, provided the consignor has been notified of non-delivery at expiration of a 48-hour period and orders for disposition have not been received.

[Amdt. 174-26, 41 FR 16092, Apr. 15, 1976, as amended by Amdt. 174-68, 55 FR 52677, Dec. 21, 1990; 66 FR 45383, Aug. 28, 2001]

### § 174.20 Local or carrier restrictions.

(a) When local conditions make the acceptance, transportation, or delivery of hazardous materials unusually hazardous, local restrictions may be imposed by the carrier.

(b) Each carrier must report to the Bureau of Explosives for publication the full information as to any restrictions which it imposes against the acceptance, delivery, or transportation of hazardous materials, over any portion of its lines under this section.

[Amdt. 174-26, 41 FR 16092, Apr. 15, 1976]

## Subpart B—General Operating Requirements

### § 174.24 Shipping papers.

(a) A person may not accept a hazardous material for transportation or transport a hazardous material by rail unless that person receives a shipping paper prepared in accordance with part 172 of this subchapter, unless the material is excepted from shipping paper requirements under this subchapter. Only an initial carrier within the United States must receive and retain a copy of the shipper's certification as required by § 172.204 of this subchapter. This section does not apply to a material that is excepted from shipping paper requirements by this subchapter.

(b) Each person receiving a shipping paper required by this section must retain a copy or an electronic image thereof, that is accessible at or through its principal place of business and must make the shipping paper available, upon request, to an authorized official of a Federal, State, or local government agency at reasonable times and locations. For a hazardous waste, each shipping paper copy must

## 49 CFR Ch. I (10–1–11 Edition)

be retained for three years after the material is accepted by the initial carrier. For all other hazardous materials, each shipping paper copy must be retained for one year after the material is accepted by the initial carrier. Each shipping paper copy must include the date of acceptance by the initial carrier. The date on the shipping paper may be the date a shipper notifies the rail carrier that a shipment is ready for transportation, as indicated on the waybill or bill of lading, as an alternative to the date the shipment is picked up, or accepted, by the carrier.

[67 FR 46128, July 12, 2002, as amended at 67 FR 66574, Nov. 1, 2002; 70 FR 73165, Dec. 9, 2005]

### § 174.26 Notice to train crews.

(a) The train crew must have a document that reflects the current position in the train of each rail car containing a hazardous material. The train crew must update the document to indicate changes in the placement of a rail car within the train. For example, the train crew may update the document by handwriting on it or by appending or attaching another document to it.

(b) A member of the crew of a train transporting a hazardous material must have a copy of a document for the hazardous material being transported showing the information required by part 172 of this subchapter, including the requirements in § 172.604(b) applicable to emergency response information.

[Amdt. 174-84, 62 FR 1236, Jan. 8, 1997, as amended at 74 FR 53423, Oct. 19, 2009]

### § 174.50 Nonconforming or leaking packages.

A leaking non-bulk package may not be forwarded until repaired, reconditioned, or overpacked in accordance with § 173.3 of this subchapter. Except as otherwise provided in this section, a bulk packaging that no longer conforms to this subchapter may not be forwarded by rail unless repaired or approved for movement by the Associate Administrator for Safety, Federal Railroad Administration. Notification and approval must be in writing, or through telephonic or electronic means, with subsequent written confirmation provided within two weeks.